

**REMARKS/ARGUMENTS**

These remarks are being submitted in response to the Office Action in the above-identified application mailed on August 24, 2004. Claims 1 to 5, 7 to 13 and 15 to 19 are pending. Claims 6, 14 and 20-35 are cancelled. Claims 1, 8, 13, 14 and 15 are currently amended.

Applicants have amended the claims to try to be consistent with the definition of Group 1 as disclosed on page 4 of the Office Action. Applicants respectfully submit that they reserve the right to file divisional applications to the amended subject matter without prejudice.

Applicants wish to thank the Examiner for acknowledging that Claims 10 to 15 are allowable if rewritten to remove non-elected subject matter.

Claim 18 and 19 were rejected as being indefinite under 35 U.S.C. 112 first paragraph for not being enabled for the prevention of stroke because the Office Action contends that the specification does not provide guidance on how one skilled in the art would go about screening patients susceptible to stroke. Applicants respectfully traverse this rejection

Applicants respectfully submit that it is well within one skilled in the art (e.g., a medical doctor) to administer the compounds of claims 1 and 8 to patients in risk of having a stroke. There are a number of risk factors of stroke, which are well with the knowledge of medical doctors. For examples, attached is a web site disclosing Stroke risk factors, such as high blood pressure, high cholesterol levels, smoking, heart disease, etc. Applicants submit that these risk factors were well-known at the time of filing this application. Furthermore, Applicants respectfully submit that the screenings for these risk factors are relatively straight forward and even routine. Accordingly, it would not require undue experimentation to screen patients at risk of having a stroke based on these well-known stroke risk factors and thus the enablement rejection for Claims 18 and 19 should be withdrawn.

The rejection of Claims 1 to 9 and 16-19 as being rejected under the judicially created doctrine of obviousness-type double patenting over U.S. Patent No. 6,316,415 in view of WO/98/16502. This rejection is respectfully traversed.

As discussed in the Office Action, a non-statutory double patenting rejection is to prevent the improper time extension of a granted patent. In addition, as discussed in MPEP 804, an obvious-type double patenting rejection is analogous to non-obviousness under 103(a) except that the patent underlying the rejection is not prior art (i.e., only the claims may be used). The analysis employed in obvious-type double patenting parallels the guidelines under 103(a). MPEP 804.

Accordingly, Applicants respectfully submit that the obviousness-type double patenting rejection is not proper for a number of reasons.

First, WO98/16502 appears to have never issued into a granted U.S. Patent. Thus, it is improper to use that application in an obviousness-type double patenting rejection because there is no improper extension of time since that reference application appears to have been abandoned.

Second, since WO98/16502 is not a proper reference, the remaining patent, U.S. Patent No. 6,316,415, does not render the pending claims obvious since the Office Action states that the combination is necessary to make a proper prima facie case of obviousness.

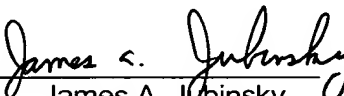
Finally, the Office Action improperly uses information disclosed in the specification as a basis for rejection (see paragraph 9 of the Office Action where it references, col. 1, lines 5-15 of U.S. Patent 6,316,415 and page 1 of WO98/16502 ). As stated above, only the claims of the reference patent may be used as a basis for rejection.

Accordingly, based upon the above reasons, Applicants respectfully submit that the rejection of Claims 1 to 9 and 16-19 as being rejected under the judicially created doctrine of obviousness-type double patenting is improper and should be withdrawn.

In view of the foregoing remarks, allowance of all rejected claims in the application is respectfully requested.

The Commissioner is hereby authorized to charge any fees required or to credit any overpayment for the submission of this response to Deposit Account No. 16-1445.

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James A. Jubinsky  
Attorney for Applicant(s)  
Reg. No. 42,700

Pfizer Inc  
Patent Department  
150 East 42nd Street – 5<sup>th</sup> Floor  
New York, NY 10017-5755  
(212) 733-0634

## Appendix

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## Stroke

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## Stroke: Warning Signs and Tips for Prevention

### What is a stroke?

Most strokes (also called "brain attacks") are caused by a blockage in an artery that carries blood to the brain.

This can cause that part of the brain to be damaged, and you may lose control of a function that is controlled by that part of the brain. For example, you could lose the use of an arm or leg, or the ability to speak. The damage can be temporary or permanent, partial or complete. Doctors have found that if you get treatment right away after symptoms start, there is a better chance of getting the blood moving to your brain, and less chance of damage.

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### How do I know if I'm having a stroke?

If you have any of the following symptoms, call for emergency help immediately. The sooner you get help, the more doctors can do to prevent permanent damage.

- Sudden weakness or numbness of the face, arm or leg on one side of the body
- Sudden dimness or loss of vision, particularly in one eye
- Loss of speech, trouble talking or understanding what others are saying
- Sudden severe headache with no known cause
- Unexplained dizziness, unstable walking or falling, especially along with any of the other symptoms

Another warning sign of a stroke is called a TIA, or transient ischemic attack (also called a "mini-stroke"). A TIA can cause the symptoms listed above and may last only a few minutes, but should not be ignored. People who have a TIA are at greater risk of having a stroke later. Call your doctor immediately if you think you are having a TIA.

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### Risk factors for a stroke

- Atherosclerosis (hardening of the arteries)
- Uncontrolled diabetes
- High blood pressure
- High cholesterol level

- Smoking
- Previous transient ischemic attack (TIA)
- Heart disease
- Carotid artery disease (the artery that carries blood to your brain)

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## How can I avoid having a stroke?

Talk to your family doctor about your risk factors for a stroke (see box above) and how to reduce your risk. Here are some other things you can do to avoid having a stroke:

- If your blood pressure is high, follow your doctor's advice to control it.
- Avoid foods that are high in fat and cholesterol, and eat less sodium (salt), to lower your cholesterol and blood pressure.
- If you have diabetes, keep your blood sugar level under control.
- Limit how much alcohol you drink.
- Quit smoking. If you don't smoke, don't start.

Ask your doctor for advice on making these lifestyle changes, and ask friends and family for support. Regular checkups are important to find problems that can increase your risk of having a stroke. Talk to your doctor about whether taking aspirin in low doses would help reduce your risk of stroke or TIA. Aspirin can help keep your blood from forming clots that can eventually block the arteries.

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*Developed in cooperation with the American Heart Association.*

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This article provides a general overview on this topic and may not apply to everyone. To find out if this article applies to you and to get more information on this subject, talk to your family doctor.

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